

NOV 18 2003

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*[Signature]*  
Attorney for Applicant

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PATENTDocket No. 2779.2.2

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	David R. Montague	)
Serial No.:	09/488,079	)
Filed:	January 20, 2000	) Art Unit
For:	COMPUTER-READABLE MEDIUM PRODUCT	) 3622
	LABEL APPARATUS AND METHOD	)
Examiner:	James W. Myhre	)

STATEMENT OF THE  
SUBSTANCE OF THE INTERVIEW

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313

Sir:

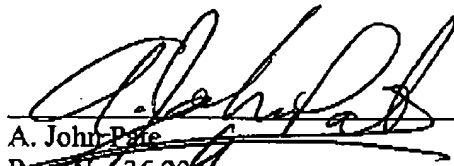
Applicant expresses appreciation for the in-person interview granted by the examiner on October 30, 2003. During the interview, the merits of claim 1 in view of Dlugos were discussed. Applicant asserted the allowability of claim 1 over Dlugos as presented in the Appeal Brief filed October 27, 2003. The examiner acknowledged that the invention claimed is software, and not a business method as most of the cases in this art unit. The examiner stated in a previous in-person

interview with Applicant in May, 2003 that his examining group (which examines business method patent applications) allowed 18-20% of patent applications, and that his own performance percentage was 10-12%. In the instant interview, the examiner stated that the group only allowed 7% of disposed patent applications last year.

The discussion between the examiner and Applicant centered around the differences between communicating information or data and communicating executable instructions from a label to a computer. The examiner stated that he considered data and executable instructions to be the same thing. Applicant respectfully disagreed, citing the specification, use of terms in the art, statutory requirements for patentability, and the 1996 software examination guidelines promulgated by the PTO. The examiner rejected Applicant's arguments, stating that if he, the examiner, were overturned on appeal he would simply find new art and maintain the rejection of the claims of the above-identified patent application based on the new art.

DATED this 18<sup>th</sup> day of November, 2003.

Respectfully submitted,

  
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Attorney for Applicant

Date: November 18, 2003

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